

In the United States Court of Federal Claims

No. 18-1784C

Filed: October 30, 2020

NOT FOR PUBLICATION

ROBERT J. LABONTE, JR.,

Plaintiff,

v.

UNITED STATES,

Defendant.

ORDER

For the reasons provided in the Memorandum Opinion filed concurrently with this Order, the defendant's motion to dismiss (ECF 74) the complaint for failure to state a claim under Rule 12(b)(6) of the Rules of the Court of Federal Claims is **GRANTED**, and the complaint's first claim for relief for disability-retirement is **DISMISSED with prejudice**.

The defendant's motion to dismiss (ECF 74) the complaint for lack of jurisdiction under Rule 12(b)(1) of the Rules of the Court of Federal Claims is **GRANTED**, and the complaint's second claim for relief under the due process clause of the fifth amendment is **DISMISSED without prejudice**.

The plaintiff's motion for judgment on the administrative record (ECF 68) and the defendant's cross-motion for judgment on the administrative record (ECF 74) are **DENIED** as moot.

The Clerk is directed to enter final judgment for the defendant and close the case. No costs are awarded.

It is so **ORDERED**.

s/Richard A. Hertling

Richard A. Hertling

Judge